

BOARD OF SELECTMEN – DECEMBER 19, 2013

I. Call to Order

Chairman Alex Vispoli reconvened the Special Meeting of the Board of Selectmen to order at 8:55 P.M. in the second floor conference room in Town Offices. Present: Chairman Alex Vispoli-Y and Selectmen Brian Major-Y, Mary Lyman-Y, Dan Kowalski-Y and Paul Salafia-Y. Also present: Town Manager Reginald S. Stapczynski and Town Counsel Tom Urbelis. The meeting was duly posted and cablecast live.

II. Executive Session.

Chairman Vispoli opened the Special Meeting of the Board of Selectmen at 7:54 P.M. Roll call: Chairman Vispoli-Y and Selectmen Paul Salafia-Y, Mary Lyman-Y and Dan Kowalski-Y. Selectman Major arrived after the meeting opened. Dan Kowalski moved for the Board to enter into Executive Session for confidential communication with Town Counsel and Special Town Counsel for legal advice and to discuss litigation strategy in the case of Berberian v. Andover and that the Chairman declare that an Open Session would be detrimental to the Town's litigation strategy position and to return to Open Session. The motion was seconded by Paul Salafia. Roll call: Selectmen Brian Major-Y, Mary Lyman-Y, Paul Salafia-Y, Dan Kowalski-Y and Chairman Alex Vispoli-Y. At 8:53 P.M. on a motion by Paul Salafia and seconded by Mary Lyman, the Board voted to adjourn from Executive Session to return to Open Session not to return to Executive Session. Roll call: Selectmen Brian Major-Y, Mary Lyman-Y, Paul Salafia-Y, Dan Kowalski-Y and Chairman Alex Vispoli-Y.

III. Opening Session

1. Board to discuss the Berberian v. Andover case

Selectman Salafia moved for the Board to authorize the Town Manager to sign the Berberian settlement agreement as amended. The motion was seconded by Selectman Kowalski and voted 5-0 to approve. Roll call: Selectmen Brian Major-Y, Mary Lyman-Y, Paul Salafia-Y, Dan Kowalski-Y and Chairman Alex Vispoli-Y.

2. Board to discuss the Raagini Decision

Chairman Vispoli reported on the recommended settlement document provided by the applicant (Andover Foods, Inc. d/b/a Raagini Indian Bistro) that included several requirements including a ten-day liquor suspension, probation, tips training and a restriction on hiring females under the age of twenty-one. Chairman Vispoli said the language the applicant included in the agreement relative to hiring females under the age of twenty-one is discriminatory and an illegal restriction. He is requesting the Board remove that restriction. Town Counsel Thomas Urbelis said the applicant proposed and agreed to the restriction, however, if a female under the age of twenty-one were to challenge the restriction, it is his opinion the restriction would be found to be unenforceable.

Selectman Kowalski pointed out that he was not comfortable with that agreement which is

why he did not take a position on the original decision. Should the restriction be removed, he would approve the agreement. The agreement should be changed prior to the order going into effect on January 2, 2014.

Attorney Urbelis pointed out that due process would require notifying the applicant about removal of the restriction prior to voting on it.

Selectman Major motioned that the Board of Selectmen authorize the Town Clerk to send a letter to Andover Foods, Inc., d/b/a Raagini Indian Bistro, advising them of a Special Meeting of the Board of Selectmen to be held on Tuesday, December 31st at 8:30 A.M. to specifically discuss removal of the language not to hire females under the age of twenty-one. The motion was seconded by Selectman Kowalski and voted 4-0 to approve. Roll call: Selectmen Brian Major-Y, Paul Salafia-Y, Dan Kowalski-Y and Chairman Alex Vispoli-Y. Selectman Lyman was not present at the time of the motion.

IV. Adjournment

At 9:15 P.M. on a motion by Selectman Major and seconded by Selectman Kowalski, the Board of Selectmen voted 4-0 to adjourn the Special Meeting of December 19, 2013.

Respectfully submitted,

Dee DeLorenzo
Recording Secretary